

1 KAMALA D. HARRIS
2 Attorney General of California
3 NICKLAS A. AKERS (SBN 211222)
4 SALLY MAGNANI (SBN 161677)
5 Senior Assistant Attorneys General
6 JUDITH A. FIORENTINI (SBN 201747)
7 DAVID A. ZONANA (SBN 196029)
8 Supervising Deputy Attorneys General
9 AMOS E. HARTSTON (SBN 186471)
10 WILLIAM R. PLETCHER (SBN 212664)
11 JON F. WORM (SBN 248260)
12 ELIZABETH B. RUMSEY (SBN 257908)
13 Deputy Attorneys General
14 600 West Broadway, Suite 1800
15 San Diego, CA 92101
16 Telephone: (619) 738-9325
17 Fax: (619) 645-2271
18 E-mail: jon.worm@doj.ca.gov
19 *Attorneys for the People of the State of California*

20
21 IN THE UNITED STATES DISTRICT COURT
22 FOR THE NORTHERN DISTRICT OF CALIFORNIA
23
24 SAN FRANCISCO DIVISION

25
26
27
28 **THE PEOPLE OF THE STATE OF
CALIFORNIA,**

Case No. 3:16-CV-03620

PARTIAL CONSENT DECREE

Plaintiff,

v.

20 **VOLKSWAGEN AG, VOLKSWAGEN
GROUP OF AMERICA, INC.,
VOLKSWAGEN GROUP OF AMERICA
CHATTANOOGA OPERATIONS LLC,
AUDI AG, DR. ING. H.C. F. PORSCHE AG,
and PORSCHE CARS NORTH AMERICA,
INC.**

Defendants.

1 **WHEREAS**, Plaintiff the People of the State of California (“the People”) acting by and
 2 through Kamala D. Harris, Attorney General of the State of California (“the California Attorney
 3 General”) and the California Air Resources Board (“CARB”) filed a complaint (the “California
 4 Complaint”) in this action on or about June 28, 2016, against Volkswagen AG, Volkswagen
 5 Group of America, Inc., Volkswagen Group of America Chattanooga Operations LLC, and Audi
 6 AG (collectively, “Volkswagen” or the “Volkswagen Parties”), and Dr. Ing. h.c. F. Porsche AG,
 7 and Porsche Cars North America, Inc. (together “Porsche” or the “Porsche Parties”) (Volkswagen
 8 and Porsche together, “Defendants”), alleging in relevant part that Volkswagen and Porsche
 9 violated California Business and Professions Code sections 17200, 17500, and 17580.5, and 12
 10 USC § 5531 *et seq.* in connection with the marketing and sale of certain diesel vehicles (the
 11 “Unfair Competition Claims”).
 12

13 **WHEREAS**, the Unfair Competition Claims will be partially resolved through the entry
 14 of the proposed Partial Consent Decree (the “DOJ Consent Decree”) between and among the
 15 United States Department of Justice, the United States Environmental Protection Agency (the
 16 “EPA”), the People, by and through CARB and the California Attorney General, and
 17 Volkswagen;

18 **WHEREAS**, Volkswagen, Porsche and the People, by and through the California
 19 Attorney General (collectively the “Parties”), have agreed to resolve certain remaining aspects of
 20 the Unfair Competition Claims without the need for litigation;

21 **WHEREAS**, except as expressly provided in this Consent Decree (the “Consent Decree”
 22 or the “Decree”), nothing in this Consent Decree shall constitute an admission of any fact or law
 23 by any Party, including as to any factual or legal assertion set forth in the California Complaint,
 24 except for the purpose of enforcing the terms or conditions set forth herein;

25 **WHEREAS**, the Parties recognize, and the Court by entering this Consent Decree finds,

that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation among the Parties regarding the Unfair Competition Claims, and that this Consent Decree is fair, reasonable, and in the public interest; and

WHEREAS, various settlement documents have been filed in this Multidistrict Litigation (“MDL”) proceeding along with this Consent Decree, namely: the DOJ Consent Decree, the Plaintiffs’ Steering Committee’s proposed Consumer Class Action Settlement Agreement and Release (“Class Action Settlement”); and the Federal Trade Commission’s proposed Partial Stipulated Order for Permanent Injunction and Monetary Judgment (“FTC Order”).

NOW, THEREFORE, before the taking of any testimony, without the adjudication of any issue of fact or law, and with the consent of the Parties, **IT IS HEREBY ADJUDGED,** **ORDERED, AND DECREED** as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331 and 1335, and over the Parties to the extent limited by this paragraph.

Venue lies in this District pursuant to 28 U.S.C. § 1407 and the MDL Panel's Transfer Order, dated December 8, 2015, and filed in this MDL action as Dkt. # 1. The Court has supplemental jurisdiction over the People's state law claims pursuant to 28 U.S.C. § 1337.

Volkswagen and Porsche consent to the Court's jurisdiction over entry of this Consent Decree and over any action against Volkswagen or Porsche to enforce this Consent Decree, and consent to venue in this judicial district for such purposes. Volkswagen and Porsche reserve the right to challenge and oppose any claims to jurisdiction that do not arise from the Court's jurisdiction over this Consent Decree or an action to enforce this Consent Decree.

2. Solely for purposes of this Consent Decree, without admission of any legal or factual assertion set forth in the California Complaint, and without prejudice to their ability

to contest the legal sufficiency or merits of a complaint in any other proceeding, Volkswagen and Porsche do not contest that the California Complaint states claims upon which relief may be granted pursuant to California Business and Professions Code Sections 17200, 17500, and 17580.5, and 12 USC § 5531 *et seq.*

II. APPLICABILITY

3. The obligations of this Consent Decree apply to and are binding upon the California Attorney General, the State of California, and upon Volkswagen and Porsche, as applicable, and any of their respective successors, assigns, or other entities or persons otherwise bound by law.

4. a. In the event of the insolvency of any Volkswagen Party or the failure by any Volkswagen Party to implement any requirement of this Consent Decree, the remaining Volkswagen Parties to this Consent Decree shall complete all such requirements.

b. In the event of the insolvency of any Porsche Party or the failure by any Porsche Party to implement any requirement of this Consent Decree, the remaining Porsche Parties to this Consent Decree shall complete all such requirements.

5. Volkswagen shall include an agreement to remain responsible for the performance obligations hereunder in the terms of any sale, acquisition, merger or other transaction changing the ownership or control of Volkswagen, and no change in the ownership or control of Volkswagen shall affect the obligations hereunder of Volkswagen without the written agreement of the California Attorney General or modification of this Consent Decree.

6. Porsche shall include an agreement to remain responsible for the performance obligations hereunder in the terms of any sale, acquisition, merger or other transaction changing the ownership or control of Porsche, and no change in the ownership or control of Porsche shall affect the obligations hereunder of Porsche without the written

agreement of the California Attorney General or modification of this Consent Decree.

7. Volkswagen and Porsche shall provide a copy of this Consent Decree to the members of their respective Board of Management and/or Board of Directors and their executives whose duties might reasonably include compliance with any provision of this Decree. Defendants shall condition any contract providing for work required under this Consent Decree to be performed in conformity with the terms thereof. Defendants shall also ensure that any contractors, agents, and employees whose duties might reasonably include compliance with any provision of the Decree are made aware of those requirements of the Decree relevant to their performance.

8. In any action to enforce this Consent Decree, Volkswagen and Porsche shall not raise as a defense the failure by any of their respective officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. DEFINITIONS

9. For purposes of this Consent Decree:

“2.0 Liter Subject Vehicles” means each and every light duty diesel vehicle equipped with a 2.0 liter TDI engine that Volkswagen sold, leased or offered for sale or lease in, introduced or delivered for introduction into commerce in, or imported into the United States or its Territories, and that is or was purported to have been covered by the following U.S. Environmental Protection Agency (“EPA”) Test Groups:

| Model Year | EPA Test Group | Vehicle Make and Model(s) |
|-------------------|-----------------------|---|
| 2009 | 9VWXV02.035N | VW Jetta, VW Jetta Sportwagen |
| 2009 | 9VWXV02.0U5N | VW Jetta, VW Jetta Sportwagen |
| 2010 | AVWXV02.0U5N | VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3 |
| 2011 | BVWXV02.0U5N | VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3 |
| 2012 | CVWXV02.0U5N | VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3 |
| 2012 | CVWXV02.0U4S | VW Passat |

| | | | |
|---|------|--------------|---|
| 1 | 2013 | DVWXV02.0U5N | VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3 |
| 2 | 2013 | DVWXV02.0U4S | VW Passat |
| 3 | 2014 | EVWXV02.0U5N | VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen |
| 4 | 2014 | EVWXV02.0U4S | VW Passat |
| 5 | 2015 | FVGAV02.0VAL | VW Beetle, VW Beetle Convertible, VW Golf, VW Golf Sportwagen, VW Jetta, VW Passat, Audi A3 |
| 6 | | | |

“3.0 Liter Subject Vehicles” means each and every model year 2009 to 2016 light duty diesel vehicle equipped with a 3.0 liter TDI engine that Volkswagen or Porsche sold, leased or offered for sale or lease in, introduced or delivered for introduction into commerce, or imported into the United States or its Territories, and that is or was purported to have been covered by the following EPA Test Groups:

| Model Year | EPA Test Group | Vehicle Make and Model(s) |
|------------|----------------|--|
| 2009 | 9ADXT03.03LD | VW Touareg, Audi Q7 |
| 2010 | AADXT03.03LD | VW Touareg, Audi Q7 |
| 2011 | BADXT03.03UG | Audi Q7 |
| 2011 | BADXT03.02UG | VW Touareg |
| 2012 | CADXT03.03UG | Audi Q7 |
| 2012 | CADXT03.02UG | VW Touareg |
| 2013 | DADXT03.03UG | Audi Q7 |
| 2013 | DADXT03.02UG | VW Touareg |
| 2014 | EADXT03.03UG | Audi Q7 |
| 2014 | EADXT03.02UG | VW Touareg |
| 2015 | FVGAT03.0NU3 | Audi Q7 |
| 2014 | EADXJ03.04UG | Audi A6, Audi A7, Audi A8, Audi A8L, and Audi Q5 |
| 2015 | FVGAT03.0NU4 | Audi A6, Audi A7, Audi A8, Audi A8L, and Audi Q5 |
| 2015 | FVGAT03.0NU2 | VW Touareg |
| 2016 | GVGAJ03.0NU4 | Audi A6 Quattro, Audi A7 Quattro, Audi A8, Audi A8L, and Audi Q5 |
| 2016 | GVGAT03.0NU2 | VW Touareg |
| 2013 | DPRXT03.0CDD | Porsche Cayenne |
| 2014 | EPRXT03.0CDD | Porsche Cayenne |
| 2015 | FPRXT03.0CDD | Porsche Cayenne |
| 2016 | GPRXT03.0CDD | Porsche Cayenne |

1 “Covered Conduct” means any and all acts or omissions, including all communications,
 2 occurring up to and including the effective date of this Consent Decree, relating to: (a) the design,
 3 installation, presence, or failure to disclose any Defeat Device in any Subject Vehicle; (b) the
 4 marketing or advertisement of any Subject Vehicle as green, clean, environmentally friendly (or
 5 similar such terms), and/or compliant with California or federal emissions standards, including
 6 the marketing, advertisement, offering for sale, sale, offering for lease, lease, or distribution of
 7 any Subject Vehicles without disclosing the design, installation or presence of a Defeat Device.

8 “Defeat Device” means (a) “an auxiliary emission control device (AECD) that reduces the
 9 effectiveness of the emission control system under conditions which may reasonably be expected
 10 to be encountered in normal vehicle operation and use, unless: (1) Such conditions are
 11 substantially included in the Federal emission test procedure; (2) The need for the AECD is
 12 justified in terms of protecting the vehicle against damage or accident; (3) The AECD does not go
 13 beyond the requirements of engine starting; [or (4) The AECD applies only for emergency
 14 vehicles[.]]” 40 C.F.R. § 86.1803-01, or (b) “any part or component intended for use with, or as
 15 part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or
 16 component is to bypass, defeat, or render inoperative any device or element of design installed on
 17 or in a motor vehicle or motor vehicle engine in compliance with [the Emission Standards for
 18 Moving Sources section of the Clean Air Act], and where the person knows or should know that
 19 such part or component is being offered for sale or installed for such use or put to such use,” 42
 20 U.S.C. § 7552(a)(3)(B).

21 “Subject Vehicles” means the 2.0 Liter Subject Vehicles and 3.0 Liter Subject Vehicles.

22 **IV. INJUNCTIVE PROVISIONS**

23 10. Volkswagen and Porsche are permanently restrained and enjoined from
 24 advertising, marketing, offering for sale, selling, offering for lease, leasing, or distributing, or

1 assisting others in the advertising, marketing, offering for sale, selling, offering for lease,
2 leasing, or distributing in California any vehicle that contains a Defeat Device. *Provided,*
3 *however,* that in any jurisdiction other than California that has a different definition of a defeat
4 device, or substantially similar device, for the purposes of this provision, that definition shall
5 govern.
6

7 11. Under Business and Professions Code §§ 17203 and 17535, Volkswagen
8 and Porsche, and Volkswagen's and Porsche's officers, agents, employees, and attorneys, and
9 all other persons in active concert or participation with any of them, who receive actual notice
10 of this Consent Decree, whether acting directly or indirectly, are permanently enjoined from,
11 expressly or by implication, including through the use of a product name, endorsement,
12 depiction, or illustration, materially:
13

- i. Misrepresenting that a vehicle has low emissions, lower emissions than other vehicles, or a specific level(s) of emissions;
- ii. Misrepresenting that the vehicle is environmentally friendly, eco-friendly, green, or words of similar import;
- iii. Misrepresenting that the vehicle complies with any United States or California emissions standard;
- iv. With respect to environmental or engineering attributes, misrepresenting the degree to which the vehicle maintains its resale value, comparative resale value, or any specific resale value;
- v. Failing to affirmatively disclose the existence of a Defeat Device in advertising or marketing concerning a vehicle, where such vehicle contains a Defeat Device;
- vi. Providing to others the means and instrumentalities with

1 which to make any representation prohibited by this Consent Decree;

2 vii. Engaging in acts or practices that violate California
3 Business and Professions Code section 17200;

4 viii. Engaging in acts or practices that violate California
5 Business and Professions Code section 17500;

6 ix. Engaging in acts or practices that violate California
7 Business and Professions Code section 17580.5;

8 x. Making any false or misleading statement, or falsifying any
9 test or data, in or in connection with an application or other submission to
10 CARB or to any other California state agency;

11 xi. Failing to affirmatively disclose the existence of an AECD
12 in any application to, submission to, or communication with CARB, where
13 such AECD has not previously been disclosed in writing to CARB;

14 xii. Failing to promptly notify CARB and the California
15 Attorney General when it has reason to believe that a Defeat Device has been
16 included in a vehicle sold or offered for sale or distribution in California;

17 xiii. Other than with respect to the Covered Conduct concerning
18 the Subject Vehicles, failing to promptly notify CARB and the California
19 Attorney General when it receives a whistleblower or other report or
20 complaint: (a) regarding any false or misleading statement, or the falsification
21 of any test or data, in or in connection with an application or other submission
22 to CARB or to any other California state agency; or (b) regarding the inclusion
23 of a Defeat Device in a vehicle sold or offered for sale or distribution in
24 California; or failing to maintain a mechanism for receiving such reports or
25

complaints;

xiv. Failing to adopt policies and procedures requiring employees and contractors providing, or performing work related to, engine control unit hardware or software to promptly notify CARB and the California Attorney General when they have reason to believe that a Defeat Device has been included in, designed for, or requested for a vehicle sold or offered, or intended to be sold or offered, for sale or distribution in California;

xv. Failing to adopt policies and procedures requiring employees and contractors under their direction or control creating or modifying engine control unit software intended for inclusion in a vehicle sold, or offered or intended to be sold or offered, for sale or distribution in California and that is anticipated to be the subject of any filing with CARB to (a) disclose, in the documentation for the software, for; and to (b) maintain a change log of, any feature that is known or reasonably should be known to detect emissions testing or function as an AECD; and

xvi. Failing to comply with any injunctive terms obtained by the People acting by and through CARB, by CARB, by the United States, or by the Federal Trade Commission in this or a related action concerning the Subject Vehicles, but only to the extent that the aforementioned injunctive terms apply to the specific Subject Vehicles or specific Defendant.

12. Volkswagen shall not engage in any misrepresentations, deceptive acts or unfair practices prohibited by the DOJ Consent Decree or the FTC Order.

13. Except as otherwise specified in this Consent Decree, if Volkswagen or Porsche reasonably believes it has violated or that it may violate any requirement of this

1 Consent Decree, Volkswagen or Porsche shall notify the California Attorney General of such
 2 violation and its likely duration, in a written report submitted within 10 business days after the
 3 date Volkswagen or Porsche first reasonably believes that a violation has occurred or may
 4 occur, with an explanation of the likely cause and of the remedial steps taken, or to be taken, to
 5 prevent or minimize such violation.
 6

7 14. Volkswagen shall, within six months of the entry of this Consent Decree,
 8 and every year thereafter for a period of five years, provide the California Attorney General
 9 with a written report regarding the measures that it has implemented to promote compliance
 10 with the requirements of the requirements of this Section IV, along with its assessment of the
 11 effectiveness of those measures.

12 15. Nothing in this Consent Decree alters the requirements of federal or state
 13 law to the extent they offer greater protection to consumers or to the environment.
 14

15 **V. MONETARY PROVISIONS**

16 16. Volkswagen shall pay to the California Attorney General a total aggregate
 17 amount of \$86,000,000, made up of the following amounts:

18 a. \$76,000,000 to be paid directly to the California Attorney General
 19 and used by the California Attorney General to defray costs of the investigation and
 20 litigation leading to this Partial Consent Decree, and for the California Attorney
 21 General's enforcement of consumer protection and environmental laws, at the sole
 22 discretion of the California Attorney General. These funds shall be additional to,
 23 and not a replacement for, funds currently available to the Attorney General for
 24 these purposes;

26 b. \$10,000,000 to be paid directly to the California Attorney General
 27 and used by the California Attorney General to provide funding in the form of
 28

1 grants to California state or local agencies, or California public or non-profit
 2 colleges or universities, for study, research, development and/or the acquisition and
 3 use of technology in the following areas: (a) detection of Defeat Devices; (b) on-
 4 road vehicle emissions testing; (c) modeling and monitoring of vehicle emissions
 5 and air quality impacts in California; or (d) public health and environmental
 6 impacts of vehicle emissions in California (including without limitation impacts on
 7 environmental justice communities, children, and other vulnerable populations).
 8 These funds shall be disbursed as grants at the sole discretion of the California
 9 Attorney General following an application and selection process that shall be
 10 established in her sole discretion. No more than 20% of the funds shall go to a
 11 single recipient agency, college or university, and grant funds shall augment, and
 12 not supplant or cause any reduction in, the recipient's budget. Funds not used for
 13 that purpose within five years of entry of this Consent Decree shall be used as
 14 described in paragraph 16(a), above.

17 17. Payments required to be made pursuant this Consent Decree shall be made
 18 within thirty (30) calendar days of the date of entry, payable by wire transfer to the California
 19 Attorney General's Office pursuant to instructions provided by the California Attorney
 20 General's Office.

22 **VI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS**

23 18. Subject to paragraphs 20 and 21 below, Volkswagen's and Porsche's
 24 agreement to satisfy all the requirements of this Consent Decree shall resolve and settle all of
 25 the People's Unfair Competition Claims, as well as all potentially applicable civil claims under
 26 California Business and Professions Code sections 17200, 17500, and 17580.5, and 12 USC §
 27 5531*et seq.*, or under any other consumer protection, unfair trade and deceptive acts and
 28

1 practices laws, as well as common law or equity (collectively “Consumer Protection Laws”),
2 including claims brought in the California Attorney General’s sovereign enforcement capacity,
3 that the People made or could have made against Volkswagen or Porsche arising from or
4 relating to the Covered Conduct concerning the Subject Vehicles.

5 19. In consideration of Volkswagen’s and Porsche’s agreement to satisfy all of
6 the requirements of this Consent Decree:

7 a. The California Attorney General releases Volkswagen, Porsche,
8 their respective direct or indirect parents and subsidiaries, and any of
9 Volkswagen’s, Porsche’s or their respective direct or indirect parents’ or
10 subsidiaries’ present or former directors, officers, employees, and dealers
11 (“Released Parties”) from all civil claims that were brought or could be brought by
12 the California Attorney General under Consumer Protection Laws arising from or
13 related to the Covered Conduct concerning the Subject Vehicles, including (i) for
14 penalties, fines, restitution or other monetary payments to the People; and (ii) for
15 restitution or other monetary payments to consumers.

16 b. To the extent that any claims released herein are duplicative of
17 claims to be released, settled or resolved by The People under the DOJ Consent
18 Decree, such claims are not released unless or until the DOJ Consent Decree has
19 been approved and entered by the Court.

20 20. The California Attorney General reserves, and this Consent Decree is
21 without prejudice to, all claims, rights and remedies against Volkswagen, Porsche or the
22 Released Parties, and Volkswagen and Porsche reserve, and this Consent Decree is without
23 prejudice to, all defenses of Volkswagen, Porsche or the Released Parties, with respect to:

24 a. All civil claims unrelated to the Covered Conduct;

- 1 b. Any criminal liability;
- 2 c. Any claims for violation of securities laws;
- 3 d. Any claims for violations of the environmental protection provisions of the
- 4 California Health and Safety Code and implementing regulations;
- 5 e. Any claim(s) of CARB, including claims that may be asserted by or on
- 6 behalf of CARB that may be brought in the name of CARB or in the name of the People
- 7 of the State of California on behalf of CARB, or claims of any other officer or agency of
- 8 the State of California, other than the California Attorney General;
- 9 f. Any claims that were brought or could be brought by the California
- 10 Attorney General:
- 11 i. Requiring Defendants to take action to buy back, recall, or
- 12 modify the 3.0 Liter Subject Vehicles;
- 13 ii. Requiring Settling Defendants to make payments to owners
- 14 and lessees of the 3.0 Liter Subject Vehicles;
- 15 iii. Requiring Settling Defendants to mitigate the environmental
- 16 harm associated with the 3.0 Liter Subject Vehicles;
- 17 iv. Requiring relief to consumers, including claims for
- 18 restitution, refunds, rescission, damages and disgorgement, related to the 3.0
- 19 Liter Subject vehicles; or
- 20 v. Related to the presence of a Defeat Device or undisclosed
- 21 AECD in a Subject Vehicle after that vehicle has received an approved
- 22 emissions modification under the terms of the DOJ Consent Decree or a
- 23 counterpart judgment or settlement regarding 3.0 Liter Subject Vehicles.
- 24 21. This Consent Decree, including the release set forth in paragraph 18, does

1 not modify, abrogate or otherwise limit the injunctive and other relief to be provided by
2 Volkswagen under, nor any other right or obligation of any party or person under, the Class
3 Action Settlement, the DOJ Consent Decree, or the FTC Order.

4 22. By entering into this Consent Decree, the California Attorney General is
5 not enforcing the laws of other countries, including the emissions laws or regulations of any
6 jurisdiction outside the United States. Nothing in this Consent Decree is intended to apply to,
7 or affect, Volkswagen's or Porsche's obligations under the laws or regulations of any
8 jurisdiction outside the United States. At the same time, the laws and regulations of other
9 countries shall not affect Volkswagen's or Porsche's obligations under this Consent Decree.

10 23. This Consent Decree shall not be construed to limit the rights of the
11 California Attorney General to obtain penalties or injunctive relief, except as specifically
12 provided in paragraph 18. The California Attorney General further reserves all legal and
13 equitable remedies to address any imminent and substantial endangerment to the public health
14 or welfare or the environment arising at any of Volkswagen's or Porsche's facilities, or posed
15 by Subject Vehicles, whether related to the violations addressed in this Consent Decree or
16 otherwise.

17 24. In any subsequent judicial proceeding initiated by the California Attorney
18 General for injunctive relief, civil penalties, or other relief, Volkswagen and Porsche shall not
19 assert, and may not maintain, any defense or claim based upon the principles of waiver, res
20 judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other
21 defenses based upon any contention that the claims raised by the California Attorney General
22 in the subsequent proceeding were or should have been brought in the instant case, except with
23 respect to the claims that have been specifically released pursuant to paragraph 18.

24 25. This Consent Decree is not a permit, or a modification of any permit, under

any federal, State, or local laws or regulations. Volkswagen and Porsche are each responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Volkswagen's or Porsche's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The California Attorney General does not, by her consent to the entry of this Consent Decree, warrant or aver in any manner that Volkswagen's or Porsche's compliance with any aspect of this Consent Decree will result in compliance with provisions of the Clean Air Act, or with any other provisions of United States, State, or local laws, regulations, or permits.

26. Nothing in this Consent Decree releases any private rights of action asserted by entities or persons not releasing claims under this Consent Decree, nor does this Consent Decree limit any defense available to Volkswagen or Porsche in any such action.

27. This Consent Decree does not limit or affect the rights of Volkswagen or Porsche or of the California Attorney General against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Volkswagen or Porsche, except as otherwise provided by law.

28. Except for persons or entities released under paragraph 18, this Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree. Except for persons or entities released under paragraph 18, no third party shall be entitled to enforce any aspect of this Consent Decree or claim any legal or equitable injury for a violation of this Consent Decree.

29. Nothing in this Consent Decree shall be construed as a waiver or limitation of any defense or cause of action otherwise available to Volkswagen or Porsche in any action. This Agreement is made without trial or adjudication of any issue of fact or law or finding of

liability of any kind.

VII. NOTICES

30. Except as specified elsewhere in this Consent Decree, whenever any notification, or other communication is required by this Consent Decree, or whenever any communication is required in any action or proceeding related to or bearing upon this Consent Decree or the rights or obligations thereunder, it shall be made in writing (except that if any attachment is voluminous, it shall be provided on a disk, hard drive, or other equivalent successor technology), and shall be addressed as follows:

As to the California Attorney General:
Senior Assistant Attorney General
Consumer Law Section
California Department of Justice
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102-7004

As to Volkswagen AG: Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Company Secretary

With copies to each of the following:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Group General Counsel

Volkswagen Group of
America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Audi AG:
Audi AG
Auto-Union-Straße 1
85045 Ingolstadt, Germany
Attention: Company Secretary

With copies to each of the following:

1
2 Volkswagen AG
3 Berliner Ring 2
38440 Wolfsburg, Germany
4 Attention: Group General Counsel

5 Volkswagen Group of
6 America, Inc.
7 2200 Ferdinand Porsche Dr.
8 Herndon, VA 20171
Attention: U.S. General Counsel

9 As to Volkswagen Group of
10 America, Inc.:

11 Volkswagen Group of
12 America, Inc.
13 2200 Ferdinand Porsche Dr.
14 Herndon, VA 20171
15 Attention: Company Secretary

16 With copies to each of the following:

17 Volkswagen Group of
18 America, Inc.
19 2200 Ferdinand Porsche Dr.
20 Herndon, VA 20171
Attention: President

21 Volkswagen Group of
22 America, Inc.
23 2200 Ferdinand Porsche Dr.
24 Herndon, VA 20171
Attention: U.S. General Counsel

25 As to Volkswagen Group of America
26 Chattanooga Operations, LLC:

27 Volkswagen Group of America
28 Chattanooga Operations, LLC
8001 Volkswagen Dr.
Chattanooga, TN 37416
Attention: Company Secretary

With copies to each of the following:

Volkswagen Group of
America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: President

1
2 Volkswagen Group of
3 America, Inc.
4 2200 Ferdinand Porsche Dr.
5 Herndon, VA 20171
6 Attention: U.S. General Counsel
7
8

9 As to Dr. Ing. h.c. F. Porsche AG:
10
11

12 Dr.Ing.h.c.F. Porsche Aktiengesellschaft
13 Porscheplatz 1, D-70435 Stuttgart
14 Attention:
15 GR/ Rechtsabteilung/ General Counsel
16

17 As to Porsche Cars North America, Inc.:
18
19

20 Porsche Cars North America, Inc.
21 1 Porsche Dr.
22 Atlanta, GA 30354
23 Attention: Secretary
24 With copy by email to offsecy@porsche.us
25
26

27 As to one or more of the Volkswagen
28 Parties:
29
30

31 Robert J. Giuffra, Jr.
32 Sharon L. Nelles
33 Sullivan & Cromwell LLP
34 125 Broad Street
35 New York, New York 10004
36
37

38 As to one or more of the Porsche
39 Parties:
40
41

42 Granta Nakayama
43 King & Spalding LLP
44 1700 Pennsylvania Ave., N.W., Suite 200
45 Washington, DC 20006
46
47

48 31. Any party may, by written notice to the other parties, change its designated notice
49 recipient or notice address provided above.

50
51 **VIII. RETENTION OF JURISDICTION**

52 32. The Court shall retain jurisdiction over this case until termination of this
53 Consent Decree, for the purpose of resolving disputes arising under this Decree or entering
54 orders modifying this Decree, or effectuating or enforcing compliance with the terms of this
55 Decree.

IX. SIGNATORIES/SERVICE

33. Each undersigned representative of Volkswagen, Porsche and the California Attorney General certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document. The California Attorney General represents that she has the authority to execute this Consent Decree on behalf of the State of California and that, upon entry, this Consent Decree is a binding obligation enforceable against California under applicable law.

34. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. For purposes of this Consent Decree, a signature page that is transmitted electronically (*e.g.*, by facsimile or e-mailed “PDF”) shall have the same effect as an original.

X. INTEGRATION

35. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein, with the exception of the DOJ Consent Decree. Other than deliverables that are subsequently submitted and approved pursuant to this Consent Decree, the Parties acknowledge that there are no documents, representations, inducements, agreements, understandings or promises that constitute any part of this Consent Decree or the settlement it represents other than those expressly contained or referenced in this Consent Decree.

1 **XI. FINAL JUDGMENT**

2 36. Upon approval and entry of this Consent Decree by the Court, this Consent
3 Decree shall constitute a final judgment of the Court as to the California Attorney General and
4 the Defendants. The Court finds that there is no just reason for delay and therefore enters this
5 judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

6
7 
8

9 UNITED STATES DISTRICT JUDGE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 FOR THE PEOPLE OF THE STATE OF CALIFORNIA:
2
3
4
5
6
7
8
9

KAMALA D. HARRIS
Attorney General of California
NICKLAS A. AKERS
SALLY MAGNANI
Senior Assistant Attorneys General
JUDITH A. FIORENTINI
DAVID A. ZONANA
Supervising Deputy Attorneys General
AMOS E. HARTSTON
WILLIAM R. PLETCHER
JON F. WORM
ELIZABETH B. RUMSEY
Deputy Attorneys General



10
11 Dated: July 5, 2016
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NICKLAS A. AKERS
Senior Assistant Attorney General
*Attorneys for the
People of the State of California*

1 FOR VOLKSWAGEN AG:

2
3
4 Dated: _____, 2016



5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
MANFRED DOESS
VOLKSWAGEN AG
P.O. Box 1849
D-38436 Wolfsburg, Germany

Dated: _____, 2016

ROBERT J. GIUFFRA, JR.
SHARON L. NELLES
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Telephone: (212) 558-4000
Facsimile: (212) 558-3358
giuffrar@sullcrom.com
nelless@sullcrom.com

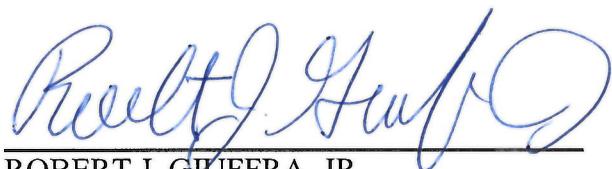
1 FOR VOLKSWAGEN AG:
2
3

4 Dated: _____, 2016

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MANFRED DOESS
VOLKSWAGEN AG
P.O. Box 1849
D-38436 Wolfsburg, Germany

Dated: July 5, 2016


ROBERT J. GIUFFRA, JR.
SHARON L. NELLES
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Telephone: (212) 558-4000
Facsimile: (212) 558-3358
giuffrar@sullcrom.com
nelless@sullcrom.com

1 FOR AUDI AG:

2
3
4 Dated: _____, 2016



MANFRED DOESS
VOLKSWAGEN AG
P.O. Box 1849
D-38436 Wolfsburg, Germany

5
6
7
8
9 Dated: _____, 2016

10 ROBERT J. GIUFFRA, JR.
11 SHARON L. NELLES
12 SULLIVAN & CROMWELL LLP
13 125 Broad Street
14 New York, New York 10004
15 Telephone: (212) 558-4000
16 Facsimile: (212) 558-3358
17 giuffrar@sullcrom.com
18 nelless@sullcrom.com

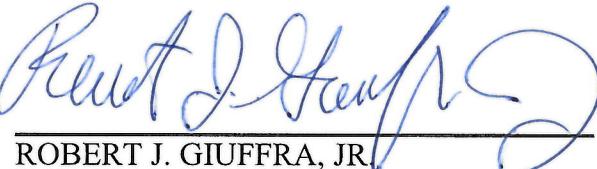
19
20
21
22
23
24
25
26
27
28

1 FOR AUDI AG:
2
3
4

Dated: _____, 2016

MANFRED DOESS
VOLKSWAGEN AG
P.O. Box 1849
D-38436 Wolfsburg, Germany

Dated: July 5, 2016


ROBERT J. GIUFFRA, JR.
SHARON L. NELLES
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Telephone: (212) 558-4000
Facsimile: (212) 558-3358
giuffrar@sullcrom.com
nelless@sullcrom.com

1 FOR VOLKSWAGEN GROUP OF AMERICA, INC.:
2
3
4 Dated: July 5, 2016


DAVID DETWEILER
VOLKSWAGEN GROUP OF AMERICA, INC.
2200 Ferdinand Porsche Drive
Herndon, Virginia 20171

8
9 Dated: July 5, 2016


ROBERT J. GIUFFRA, JR.
SHARON L. NELLES
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Telephone: (212) 558-4000
Facsimile: (212) 558-3358
giuffrjr@sullerom.com
nelless@sullerom.com

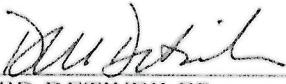
16
17
18
19
20
21
22
23
24
25
26
27
28

1 FOR VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS LLC:

2

3

4 Dated: July 5, 2016


DAVID DETWEILER
VOLKSWAGEN GROUP OF AMERICA, INC.
2200 Ferdinand Porsche Drive
Herndon, Virginia 20171

5

6

7

8

9 Dated: July 5, 2016


ROBERT J. GIUFFRA, JR.
SHARON L. NELLES
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Telephone: (212) 558-4000
Facsimile: (212) 558-3358
giuffrar@sullcrom.com
nelless@sullcrom.com

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 FOR DR. ING. H.C. F. PORSCHE AG:
2
3
4 Dated: July 4, 2016


5 DR. MICHAEL STEINER
6 MEMBER OF THE EXECUTIVE BOARD –
7 RESEARCH AND DEVELOPMENT
8 DR. ING. H.C. F. PORSCHE AG
9 Porschestrasse 911
10 D-71287 Weissach

11 Dated: July 4, 2016


12 ANGELA KREITZ
13 GENERAL COUNSEL
14 DR. ING. H.C. F. PORSCHE AG
15 Porscheplatz 1
16 D-70435 Stuttgart

17 Dated: July 4, 2016


18 GRANTA Y. NAKAYAMA
19 JOSEPH A. EISERT
20 KING & SPALDING LLP
21 1700 Pennsylvania Ave., N.W., Suite 200
22 Washington, DC 20006
23 Telephone: (202) 737-0500
24 gnakayama@kslaw.com
25 jeisert@kslaw.com

1 FOR PORSCHE CARS NORTH AMERICA, INC.
2
3

4 Dated: July 6, 2016


5 TIMOTHY L. QUINN
6 VICE PRESIDENT, AFTER SALES
7 PORSCHE CARS NORTH AMERICA, INC.
8 1 Porsche Dr.
9 Atlanta, GA 30354

10
11 Dated: July 6, 2016


12 JOSEPH S. FOLZ
13 VICE PRESIDENT, GENERAL COUNSEL
14 AND SECRETARY
15 PORSCHE CARS NORTH AMERICA, INC.
16 1 Porsche Dr.
17 Atlanta, GA 30354

18 Dated: July 1, 2016


19 GRANTA Y. NAKAYAMA
20 JOSEPH A. EISERT
21 KING & SPALDING LLP
22 1700 Pennsylvania Ave., N.W., Suite 200
23 Washington, DC 20006
24 Telephone: (202) 737-0500
25 gnakayama@kslaw.com
26 jeisert@kslaw.com